

Getting to “Yes”

RCRA and Brownfields in Motion

Brownfields 2003

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Overview – will show how 3 tools have successfully been used

- Comfort Letters
- Prospective Purchaser Agreements
- Creative Settlements

The Tool: Comfort Letters

- Comfort letters/status letters are provided solely for informational purposes
- Based on Superfund comfort/status letter model
- They relate to EPA's intent to exercise its RCRA corrective action authorities at a property based upon the information presently known to EPA.

Comfort Letters

- Letters are not intended to limit EPA's authority under RCRA, or any other law, or to provide a release from RCRA.
- For more information, see epa.gov/compliance/resources/policies/cleanup/rcra/index.html and epa.gov/compliance/resources/policies/cleanup/brownfield/index.html

The Result – Approved Oil Services/Milt Adams, Inc.

- This one-acre property in Commerce City, CO is a former oil processing complex that ceased operations in 1999
- This RCRA Brownfield pilot demonstrates a successful *voluntary* approach to cleaning up a RCRA site where the owner is insolvent or bankrupt

Approved Oil Services/Milt Adams, Inc.



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- During the pilot EPA and the state provided an initial comfort letter to encourage stakeholder participation in the SCC's money collection effort.
- When stakeholders couldn't obtain liability insurance for such a small site, EPA and the state issued a *second comfort letter* to stakeholders who had contributed to the cleanup, assuring them it was highly unlikely that additional cleanup money would be sought from them.

Approved Oil Services/Milt Adams, Inc.



Cleanup to clean closure, or “walkaway” standards, was completed in August 2003.

The Tool: Prospective Purchaser Agreements

- Memo “Prospective Purchaser Agreements and Other Tools to Facilitate Cleanup and Reuse of RCRA Sites” issued April 8, 2003
- Identified RCRA PPAs, the Completion Guidance for Corrective Action Activities at RCRA Facilities, and RCRA Comfort/letters as appropriate tools to overcome real or perceived barriers at RCRA sites
- Recognizes revitalization as a key part of the Agency’s mission

Prospective Purchaser Agreement Considerations

■ Memo recommended consideration of the following factors when determining whether to do a RCRA PPA:

- Whether a comfort/status letter or other less resource intensive option will suffice;
- Whether the facility in question, or a portion of it, will be cleaned up/addressed as a result of the PPA;

Prospective Purchaser Agreement Considerations

- Whether EPA and its resources have been directly involved in the cleanup activities at the site;
- Whether there will be significant benefits to the community, environment, or government through remediation of the site and benefits from the redevelopment at the site (new jobs, increased tax base, etc.) that would not occur otherwise;

Prospective Purchaser Agreements Considerations

- Whether the owner/operator has extremely limited or no resources to address corrective action and the prospective purchaser intends to address the clean up of the property; and


- EPA and DOJ staff availability

- Website:
www.epa.gov/swerosps/rcrabf/pdf/memoppa.pdf

The Result: Former Allied-Signal Parcel, Baltimore, MD

- A new twist on the traditional Prospective *Purchaser* Agreement
- On Feb. 14, 2003, EPA, DOJ, and MDE executed a Prospective *Lessee* Agreement (PPL) with SBER Harbor Point and Harbor Point Development, LLC at a 27 acre parcel of property formerly owned and operated by Allied-Signal in Baltimore, MD

Former Allied-Signal Parcel, Baltimore, MD

 The PLA will resolve certain potential EPA claims under CERCLA and RCRA, as well as MDE claims under the Maryland Code for existing contamination at the property which might otherwise result from the Lessee's entering into a long-term ground lease.



Former Allied-Signal Parcel, Baltimore, MD



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Former Allied-Signal Parcel, Baltimore, MD




Former Allied-Signal Parcel, Baltimore, MD

 Harbor Point Development intends to offer commercial space for lease, to include mixed use office-technology-retail space.



Former Allied-Signal Parcel, Baltimore, MD

 The Lessee will be required to comply with the institutional control requirements set forth in the Consent Decree



Another PPA Result: Northwestern Steel and Wire Co.

- Northwestern Steel and Wire Co., a 700 acre facility, located in an environmental justice community, had shut down all operations at the plant
- The purchaser, Sterling Steel, a division of Leggett & Platt, Inc., intended to acquire the relatively “clean” portion of the property, and to conduct steel making operations there – manufacturing bed springs

Northwestern Steel and Wire Co.

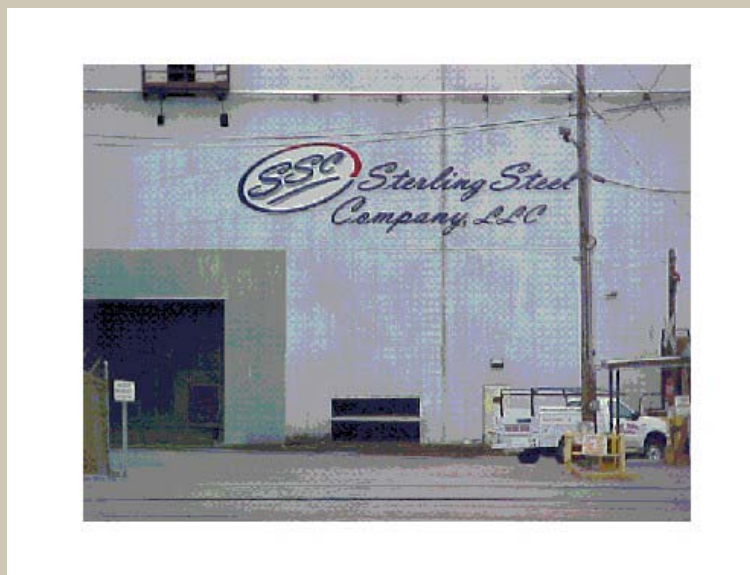


Northwestern Steel and Wire Co.


- While there had been no “federal action” at the property (expenditure of CERCLA cleanup money), there was a very real possibility that EPA might have to perform response work at the facility in the event the PPA did not move forward
- The buyer entered into the Illinois Voluntary Cleanup Program to do cleanup at the portion of the property that it was acquiring

Northwestern Steel and Wire Co.

State and EPA grant monies have been used to leverage over \$45 million in private capital to create seven new businesses at the site and 350 to 600 new jobs



Northwestern Steel and Wire Co.

 Further private investment totaling approximately \$50 million at the Northwest Steel and Wire property is anticipated from further planned development activities



The Tool: Creative Settlement Opportunities



The Result: Laclede Steel Co., (Alton Steel), Alton, IL



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Laclede/Alton Steel

- On January 21, 2003 EPA, DOJ, and the State of Illinois lodged a Settlement Agreement in the US Bankruptcy Court that was reached with Laclede Steel Company for RCRA and potential CERCLA claims
- Under terms of the Agreement, Laclede, which filed a petition for Chapter 11 Bankruptcy on July 27, 2001, sold its former facility to Alton Steel Company (“Alton Steel”) for \$1,000,000, which would be placed into a trust fund. Laclede operated the Alton mill for close to 90 years, before halting operations there as part of its 1998 bankruptcy reorganization

Laclede/Alton Steel

 Since 1998, Laclede has been violating its Resource Conservation and Recovery Act (RCRA) permit. Under the settlement agreement, this permit will be transferred to Alton Steel, which will be responsible for bringing the facility back into compliance with it.

Laclede/Alton Steel

- The \$1 million trust fund could be used by Alton Steel to address environmental concerns at the Facility; and to meet a portion of the financial assurance requirement of the RCRA Permit
- In addition, Laclede agreed to place \$100,000, upon the closing of the transfer of the Facility to Alton Steel, into a Superfund Special Account to be used for future response actions at the facility

Laclede/Alton Steel

- A compliance schedule setting forth a ten year schedule for Alton Steel to attain full funding of the RCRA Part B Closure and Post-Closure Permit's requirements for financial assurance as included in the agreement.

Laclede/Alton Steel




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Laclede/Alton Steel

 At its peak, Laclede employed in excess of 3,000 workers at its Alton facility and still employed over 600 there at the time of the first bankruptcy. Alton Steel will initially staff the plant operations with approximately 80 hourly employees and expects to expand operations there by the end of the first year to require a total of approximately 222 hourly employees.

Laclede/Alton Steel

 The Agreement represents an ideal framework from which future agreements may be modeled, because it adheres closely to hazardous waste clean-up principles while potentially revitalizing a site for future economic benefit and productive use.